

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION,
CENTER FOR CONSTITUTIONAL RIGHTS,
PHYSICIANS FOR HUMAN RIGHTS,
VETERANS FOR COMMON SENSE, and
VETERANS FOR PEACE,

Plaintiffs,

v.

04 Civ. 4151 (AKH)

DEPARTMENT OF DEFENSE, AND ITS
COMPONENTS DEPARTMENT OF ARMY,
DEPARTMENT OF NAVY, DEPARTMENT OF
AIR FORCE, DEFENSE INTELLIGENCE
AGENCY; DEPARTMENT OF HOMELAND
SECURITY; DEPARTMENT OF JUSTICE,
AND ITS COMPONENTS CIVIL RIGHTS
DIVISION, CRIMINAL DIVISION,
OFFICE OF INFORMATION AND PRIVACY,
OFFICE OF INTELLIGENCE POLICY AND
REVIEW, FEDERAL BUREAU OF
INVESTIGATION; DEPARTMENT OF STATE;
and CENTRAL INTELLIGENCE AGENCY,

Defendants.

THIRD DECLARATION OF MARILYN A. DORN
INFORMATION REVIEW OFFICER
CENTRAL INTELLIGENCE AGENCY

I, MARILYN A. DORN, hereby declare and say:

1. I am the Information Review Officer (IRO) for the
Directorate of Operations (DO) of the Central Intelligence
Agency (CIA). This is the third declaration that I have
submitted in this case. My declarations dated 15 October

2004 and 16 February 2005 are incorporated herein by reference.

2. I make the following statements based upon my personal knowledge and information provided to me in my official capacity.

3. I affirm based on personal knowledge that in 1995 the Director of Central Intelligence (DCI) personally designated categories of operational files as exempt from the Freedom of Information Act (FOIA) in accordance with the authority granted to the DCI in the CIA Information Act, 50 U.S.C. § 431(a). I also affirm based on personal knowledge that the DCI's 1995 designations of exempt operational files are the designations of exemptions currently in force.

4. The DCI's 1995 designations of categories of operational files as exempt from FOIA are memorialized in an internal memorandum signed by the Acting DCI in 1995. The memorandum is currently and properly classified at the SECRET level in accordance with Executive Order 12958.¹ The memorandum is located in the official records systems maintained by the CIA in the ordinary course of its

¹ Executive Order 12958 was amended by Executive Order 13292. See Exec. Order No. 13292, 69 Fed. Reg. 15315 (Mar. 28, 2003). All citations to Exec. Order No. 12958 are to the Order as amended by Exec. Order No. 13292. See Exec. Order No. 12,958, 3 C.F.R. 323 (1995), reprinted as amended in 50 U.S.C.A. § 435 note at 91 (Supp. 2004).

business. To the best of my knowledge, the CIA has never submitted the DCI's classified designation memorandum to any court, not even on an in camera, ex parte basis.

5. As stated in my previous declarations, I affirm that I have personally reviewed the memorandum memorializing the DCI's 1995 designations of categories of operational files that are exempt from FOIA. I also affirm that I have personally reviewed Plaintiffs' FOIA requests that are the subject of this case. Based upon my personal comparison of the DCI's 1995 designations of categories of exempt operational files and Plaintiffs' FOIA requests, I have determined that records responsive to the request would be located in the categories of DO operational files that the DCI has designated as exempt operational files.

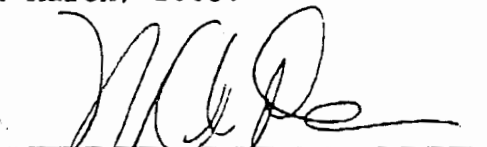
6. I also have personally reviewed the categories of exempt operational files likely to contain responsive records and the definition of operational files set forth in the CIA Information Act. I have determined that the categories of exempt operational files likely to contain responsive records currently perform the functions set forth in subsection b(1) of the Act, 50 U.S.C. 431(b)(1). Specifically, the categories of exempt operational files likely to contain responsive records are files of the Directorate of Operations which document the conduct of

foreign intelligence or counterintelligence operations or
intelligence or security liaison arrangements or
information exchanges with foreign governments or their
intelligence or security services.

* * * *

I hereby declare under penalty of perjury that the
foregoing is true and correct.

Executed this 9th day of March, 2005.

A handwritten signature in dark ink, appearing to read 'MAD', is written over a horizontal line.

Marilyn A. Dorn
Information Review Officer
Central Intelligence Agency